

If no tangible personal property is transferred incident to a sale of service, then no Service Occupation Tax liability or Use Tax liability would be incurred in regards to that service. See 86 Ill. Adm. Code 140.101 et seq. (This is a GIL.)

January 9, 2006

Dear Xxxxx:

This letter is in response to your letter dated March 21, 2005, in which you request information. We apologize for the delay in responding to your inquiry. The Department issues two types of letter rulings. Private Letter Rulings ("PLRs") are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. A PLR is binding on the Department, but only as to the taxpayer who is the subject of the request for ruling and only to the extent the facts recited in the PLR are correct and complete. Persons seeking PLRs must comply with the procedures for PLRs found in the Department's regulations at 2 Ill. Adm. Code 1200.110. The purpose of a General Information Letter ("GIL") is to direct taxpayers to Department regulations or other sources of information regarding the topic about which they have inquired. A GIL is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120. You may access our website at [www.ILTAX.com](http://www.ILTAX.com) to review regulations, letter rulings and other types of information relevant to your inquiry.

The nature of your inquiry and the information you have provided require that we respond with a GIL. In your letter you have stated and made inquiry as follows:

I am requesting legal interpretation of our agreement with ABC and our use of the services ABC provides for our employees who are based in Illinois to determine if there is any Illinois sales/use tax that would apply.

Attached you will find a copy of our contract with ABC.

Below is an explanation of the process that is followed to use the services that we have purchased from ABC:

1. Employee goes to ABC website and enters expense report.
2. Employee faxes copy of the receipt to ABC.
3. Employee's manager receives notification of the expense report and can view the expense report and receipts on-line and approve the invoice. If the expense report needs additional approvals the appropriate people will also receive notices and can view the expense report and receipts on-line and approve the expense report.
4. Accounts payable receives notification that the expense report has been approved and pays the invoice.

The information will be kept on ABC's server. At the end of the year, they will send XYZ a CD that will have all the expense reports for the year on it, which will be housed at our

headquarters in CITY/STATE. Also, all employees with access will be able to view the expense reports on-line.

Please help XYZ determine if Illinois sales/use tax applies since XYZ has employees that are located at our CITY domicile and use ABC for expense reporting. If [sic] it is determined that the service is taxable, we will need to know how to determine what part of the project is considered service vs. imaging. We would then need to know how we would come up with the tax base, since this service is provided to our employees' nation wide.

Please contact myself to discuss taxability issues.

#### **DEPARTMENT'S RESPONSE:**

Please be aware that we cannot provide you with a specific answer regarding your tax liabilities in the context of a General Information Letter. The general information set out below may assist you in determining your tax liabilities if any.

Illinois Retailers' Occupation and Use Taxes do not apply to sales of service that do not involve the transfer of tangible personal property to customers. However, if tangible personal property is transferred incident to sales of service, this will result in either Service Occupation Tax liability or Use Tax liability for the servicemen depending upon his activities. For your general information see of 86 Ill. Adm. Code 140.101 through 140.109 regarding sales of service and Service Occupation Tax. Please note that the electronic transfer of information is not generally considered the transfer of tangible personal property in this State.<sup>1</sup> If no tangible personal property is transferred incident to a sale of service, then no Service Occupation Tax liability or Use Tax liability would be incurred in regards to that service.

I hope this information is helpful. If you require additional information, please visit our website at [www.ILTAX.com](http://www.ILTAX.com) or contact the Department's Taxpayer Information Division at (217) 782-3336. If you are not under audit and you wish to obtain a binding PLR regarding your factual situation, please submit a request conforming to the requirements of 2 Ill. Adm. Code 1200.110 (b).

Very truly yours,

Terry D. Charlton  
Senior Counsel, Sales & Excise Taxes

TDC:msk

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<sup>1</sup> The only exception to this rule is the electronic transfer of canned computer software. See 86 Ill. Adm. Code 130.1935.